HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 5927 OF 2005.

Ramakant Karnik Nagar Co-op.
Housing Society "B" Ltd, Solapur. ..Petitioner.

Versus.

The District Collector, Solapur & Ors. ..Respondents.

Shri. S.G.Kudale for the Petitioner.

Shri. P.M.Patil, AGP for the Respondent -State.

CORAM: S.B.MHASE &
D.G.KARNIK, JJ.

DATE : FEBRUARY 14, 2006.

P.C.

1. Rule. By consent rule is made returnable forthwith. Shri. P.M.Patil, learned A.G.P. waives service on the rule on behalf of the respondent- State.

2. The petitioner is a co-operative housing society formed by the employees of the State Government. The petitioner made an application to the government for allotment of lands which was acquired by the government as excess udner the Urban Land (Ceiling & Regulation) Act, 1976 (in short, "ULC Act."). After considering the application of the petitioner by an order dated 10th April, 1985, the respondents allotted

to the petitioner society the land bearing Final Plot No.30, CTS. No. 10385 admeasuring approximately 6-hectares 2-Rs. at Solapur. One of the conditions of allotment was that the petitioner shall not enroll any new member nor substitute any original member without prior approval of the collector.

3. It appears that after allotment of the land some of the members of the petitioner society resigned its membership and several new persons have made applications to be enrolled as members. The petitioner thereafter made an application to the Collector for substituting new members in place of the resigned members. It is the grievance of the petitioner that the Collector has not passed any order though the application was made for permission as required under clause 7 of the allotment order dated 10th April 1985.

4. Learned AGP states that the Collector would take an appropriate decision on the petitioner's application within a reasonable time. He however states that the Collector would be required to investigate whether the newly - proposed members are the government employees and whether there are any irregularities in a large scale resignations by a large number of members and whether there has been

inappropriate practices adopted by the society in initially enrolling some members and subsequently substituting them or whether this is done for any collateral reasons. Learned AGP also states that under clause 7 of the allotment order, prior permission of the Collector is necessary. The Collector is required to investigate as to whether any transfer of membership has already taken place without his prior permission and only subsequent application has been made. He, therefore, states that the reasonable long time should be granted to the Collector for making an enquiry before taking any decision.

5. We are of the view that six months period would be a reasonable time taking into consideration that about 121 out of 263 members appear to have resigned. We accordingly direct the Collector to consider on its own merits the application made by the respondent no.1 for substitution of the members Needless to say that the Collector would decide whether new allottees are eligible and whether the permission should be granted in the facts and circumstances of the case. The Collector shall pass the appropriate orders within a period of six months.

(D.G.KARNIK,J.) **(S.B.MHASE, J.)**